

THE HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

MA.CMA.NO.2033 OF 2014

JUDGMENT

Assailing the order and decree dated 10.10.2012 passed by the Motor Vehicles Accident Claims Tribunal – cum – XIV Additional Chief Judge, (Fast Track court), City Civil Courts, Hyderabad in MVOP.No.2395 of 2010, the claimant, who is the injured, filed the present appeal seeking enhancement of compensation.

2. The case of the clamant is that on 9.4.2010 at 10.00 hours, while he was going on his bicycle towards LB Nagar side, and that when he reached Panama X roads, at the same time, the driver of the RTC bus bearing No. AP 10Z 1344 drove the bus in a rash and negligent manner, and dashed the claimant from behind, due to which, he fell down and sustained grievous injuries to leg, hands and all over the body, and immediately, he was shifted to Osmaia General Hospital, Hyderabad, and admitted as inpatient on same day, and underwent operation, rods were inserted in his leg and took treatment for other injuries all over the body and after discharged from Osmania General Hospital, Hyderabad, took treatment with private doctors by spending huge amount. The claimant suffered with severe pain, and he is not able to move and walk because of these grievous injuries and became permanently disabled.

3. With these averments, he filed claim petition, claiming an amount of Rs.1,50,000/- against the driver and owner of the bus, which is owned by RTC.

4. The respondents contested the claim and denied their liability and also the age, avocation and income of the claimant and sought for dismissal of the claim.

5. The Tribunal considering the evidence of P.W.1, who is the injured, coupled with Exs.A-1 to A-3 held that the accident occurred due to rash and negligent driving of the driver of the bus of the corporation.

6. The Tribunal taking the income of the deceased as Rs.3,000/- per month and by applying the multiplier of 12, as the claimant is found to be aged 45 years, and taking the disability of the claimant at 50%, granted an amount of Rs.2,34,000/- towards the loss of income. Tribunal also granted an amount of Rs.2,000/- towards medical expenses and extra nourishment, Rs.3,000/- towards pain and suffering and Rs.500/- towards transportation charges. Thus, in all, Tribunal granted an amount of Rs.1,50,000/-.

7. Seeking enhancement of compensation, claimant filed the present appeal. In the present appeal there is no dispute with regard to the finding of the Tribunal that accident occurred due to rash and negligent driving of the driver of the crime vehicle, and the only dispute is with regard to quantum of compensation granted by the Tribunal.

8. Heard the learned counsel for the appellant / claimant and the Sri N.Praveen Reddy, learned Standing Counsel for the respondent – Corporation.

9. The case of the claimant is that because of the accident, he sustained fracture of floating right knee, fracture of sub-trochantric right femur, compound fracture of right tibia and fibula, fracture of left hand second finger, and thus he sustained injuries all over the body. The claimant apart from examining himself as P.W.1, also examined P.W.2, who, after verifying the medical record issued disability

certificate, Ex.A-5 stating that claimant sustained 50% disability, which is partial and permanent in nature.

10. Learned counsel for the appellant submitted that the claimant was aged 45 years, and in the absence of any evidence, his earnings can be taken as Rs.4,500/- per month, but the Tribunal has taken his income only as Rs.3,000/-, which is very meager.

11. Having regard to the facts and circumstances of the case, I am of the considered view that the claimant, who is aged 45 years as per Ex.A-2 charge sheet and Ex.A-5 disability certificate, his monthly income can be taken at Rs.4,500/- per month, and thus his annual comes to Rs.54,000/-, and the appropriate multiplier for the age group of the deceased is 14. Thus the loss the earnings comes to Rs.7,56,000/- ($\text{Rs.54,000/-} \times 14 = \text{Rs.7,56,000/0.}$) As per Ex.A-5, the claimant sustained 50% disability, which is partial and permanent in nature, and hence the loss of earnings can be taken as Rs.3,78,000/-

12. Further, having regard to the nature of injuries sustained by the claimant and also having regard to the facts and circumstances of the case, the amount of Rs.3,000/- granted by the Tribunal towards pain and suffering is enhanced to Rs.10,000/-. Similarly, the amount of Rs.2,000/- granted by the Tribunal under the head of medical expenses and extra-nourishment is enhanced to Rs.5,000/- . The amount of Rs.500/- granted towards transportation charges is enhanced to Rs.1,000/-.

13. It is to be further noticed that the Tribunal in the present case, though arrived at Rs.2,39,500/-, restricted the compensation to Rs.1,50,000/-, which is the amount claimed. It is well settled that if the Tribunal based on evidence finds that the

claimant is entitled to more compensation than claimed, it can grant the said amount and the compensation need not be restricted to the amount claimed. (See ADAM INDUR MUTTEMMA v. RATHOD REDDIA¹).

14. Thus, in all the claimant is granted the following amounts:

1. Loss of earnings	--	Rs.3,78,000 – 00
2. Pain and suffering	--	Rs. 10,000 – 00
3. Medical expenses and for extra-nourishment	--	Rs. 5,000 – 00
4. Transportation charges	--	Rs. 1,000 – 00

		Rs.3,94,000 – 00

15. Thus the amount of Rs.1,50,000/-, granted by the Tribunal is enhanced to Rs.3,94,000/- with interest at the rate of 7.5 per cent per annum from the date of claim petition till the date of realization. Respondents 1 and 2 are jointly and severally liable to pay the amount. On such deposit the claimant is entitled to withdraw the same.

16. Any amount already deposited shall be given credit to. The claimant shall pay the deficit court fee.

17. The appeal is accordingly allowed to the extent indicated above.

18. Interlocutory Applications pending, if any, shall stand closed. No order as to costs.

M.G.PRIYADARSINI,J

DATE:26—08—2022
AVS

¹ 2015(4) ALT 775 (L.B.)